

**ENGINEERING CONSTRUCTION PHASE
CONTRACT FOR PROFESSIONAL SERVICES
FOR
SOLID WASTE PROJECTS**

CITY/TOWN OF _____, NEW HAMPSHIRE

FACILITY NAME _____ WMD Permit No. _____

This AGREEMENT made and entered into at _____ County, New Hampshire, this _____ day of _____ 20____, by and between City/Town of _____ hereinafter called the OWNER, and _____ hereinafter called the ENGINEER.

WITNESSETH:

WHEREAS, the OWNER intends to construct _____

hereinafter called the PROJECT, and

WHEREAS, professional engineering services will be required for construction administration, resident engineering and related services, and

WHEREAS, such services are of a distinct professional nature and hence not subject to the bidding process,

NOW THEREFORE, in consideration of these premises and of the mutual covenants herein set forth, the OWNER hereby employs the ENGINEER to furnish the following engineering services in connection with the proposed PROJECT; and it is agreed by and between the OWNER and the ENGINEER as follows:

I. Services to be Performed by the ENGINEER

A. Upon execution of this AGREEMENT, the ENGINEER shall proceed with the general administration of construction and inspection by qualified personnel of the contractor's work to assure compliance with the contract documents and any coincident or subsequent changes or change orders for the construction of the project for the (Town/City) of _____.

Said services shall include, but shall not necessarily be limited to:

1. General Construction Administration

- a. Updating and modifications of contract documents to meet changed site and project conditions or variations in State or Federal requirements.
- b. Assistance in securing construction bids, conduct bid opening, tabulation and analysis of bids, and recommendation regarding award of contract. A copy of the bid analysis will be furnished to the Department of Environmental Services, Water Division, hereinafter called the WD and the Waste Management Division hereinafter called the WMD
- c. Completion of formal contract documents for the award of contracts.
- d. Checking detail construction, shop and erection drawings submitted by the contractor.
- e. Reviewing laboratory, shop, and mill test reports of materials and equipment.
- f. Preparation of drawings and technical material as required to supplement and/or clarify the contract documents.
- g. Review, verification, and approval of estimates for periodic and final payments to the contractor for submittal to the OWNER and the WD.
- h. Periodic inspection of work and final inspection.

i. Observing and reporting performance and qualifying tests required by specifications.

* j. Keeping daily records of construction progress and compiling same into progress reports for submission to the OWNER, WD and WMD.

* k. Verifying and keeping records of construction items of work accomplished for use as a basis of checking contractors' monthly estimates.

l. Consultation and advise during construction.

m. Determination of need for and preparation of change orders for approval by the OWNER, WD and WMD based on conditions found during construction and/or additions or modifications to the work requested by the OWNER and approved by the ENGINEER, WD and the WMD and implemented at a price recommended by the ENGINEER as equitable. For change order items exceeding \$10,000, the ENGINEER shall prepare an independent cost estimate.

n. Determination of "equality" for substitution of materials and equipment specified and securing WD and WMD approval thereof.

o. Provide construction control lines and grades including baselines and bench marks.

p. Preparation of application, supporting and associated documents for Federal, State, and other grant or loan programs, including monthly reimbursement requests.

q. Preparation of certificate of substantial completion and contract completion.

r. Assist the OWNER in obtaining the required project related approvals of State and Federal agencies.

* Duties of the resident engineer/inspector

2. Resident Inspection and Other Special Services

a. The ENGINEER agrees to provide at least one Registered Professional Civil Engineer on the project site and one or more inspectors as necessary (full or part time) to assist the ENGINEER in the work of General Administration as described under I(A) and in observing construction activity for compliance with the contract documents and any associated change orders. Both the WD and the WMD shall be notified in writing of the name of the resident engineer, assistant engineers, and construction inspectors, and shall be provided with a brief history of the resident engineer's, assistant engineer's and inspector's construction experience. The resident engineer and his inspectors shall be in the employ of and under direct control of the ENGINEER. It is further agreed that failure of the resident engineer to administer the PROJECT to the satisfaction of the WSPCD, the WMD or the OWNER is deemed to be sufficient basis for his removal from the PROJECT and replacement.

b. The ENGINEER agrees to provide engineering services in accordance with the attached schedule during the warranty period, including final project inspection and preparation of the project certificate of completion.

c. Preparation of a post closure Monitoring and Maintenance Manual for approval by the WMD. After WMD approval, the ENGINEER agrees to supply five (5) sets of the completed manual, two (2) of which will be for the WMD.

d. Preparation of record drawings of the work appropriate for the construction. Three (3) sets of prints to be furnished to the WMD.

II. The OWNER'S Responsibilities

A. Assist the ENGINEER by placing at his disposal all available information pertinent to the PROJECT, including previous reports and other data relative to the reports.

B. Make provisions for the ENGINEER to enter upon public and private lands, municipal facilities and industrial establishments as required to perform work under this AGREEMENT.

C. The OWNER also agrees to comply with State of New Hampshire and Federal requirements (Where applicable) as they relate to this project.

III. Compensation to be paid the ENGINEER

A. Method of Payment Amount of Fee

1. Payment to the ENGINEER, for services rendered, shall be according to the following schedule:

Statements will be rendered (with modifications if necessary) monthly with billing by the hour and rate by labor category with mark-up and incidental expenses in accordance with the attached fee schedule.

2. The OWNER agrees to pay and the ENGINEER agrees to accept for all services under this AGREEMENT, a fee not to exceed

Dollars
(\$_____).

B. Limits of All Payment

1. The ENGINEER further agrees that the following fee for his services under I (A)(1), for Construction Administration on this PROJECT, (exclusive of work performed by resident engineering staff) is adequate to complete the work and shall not exceed

Dollars
(\$_____).

2. Payment to the ENGINEER for resident engineering and other special services shall be as follows:

a. Resident engineering and supporting staff (as agreed to by the OWNER and WD) as described under I (A)(2)(a) for a period of _____ working (days)(hours) an amount not to exceed

Dollars
(\$_____).

Overtime shall be converted to equivalent fractions of 8-hour days. If the number of working days for inspection personnel stated above is not sufficient to provide adequate inspection of the PROJECT, it is agreed that the additional cost of resident services may be negotiated with the OWNER and the WD.

b. For engineering services during the warranty period as described under I (A)(2)(b), an amount not to exceed

____ Dollars
(\$_____).

c. For preparation of the Manual as described under I (A)(2)(c) and instructions on its use, an amount not to exceed

____ Dollars
(\$_____).

d. For special services, an amount equal to the actual cost of such work. The actual cost shall include compensation to the ENGINEER for his work on these services. The ENGINEER also assures the OWNER that the moneys to be paid under this item are adequate for the work proposed and shall not exceed

____ Dollars
(\$_____).

e. For preparation of the Record Drawings as described under I (A)(2)(d), an amount not to exceed

____ Dollars
(\$_____).

IV. Additional Covenants

A. The ENGINEER agrees to provide in active charge of this PROJECT for the life of the contract a Project Engineer who is a permanent employee of the ENGINEER. The Project Engineer shall be*

(Name and address)

* *Resume clearly describing the candidate's qualifications for the assignment is appended for convenience of reference.*

Any proposed change in identity of the Project Engineer on the PROJECT shall first be approved by the WD before transfer of responsibility is made. Failure of the Project Engineer to administer the PROJECT to the satisfaction of the OWNER and/or WD and WMD is deemed sufficient basis for his removal and replacement.

B. The ENGINEER agrees to be solely responsible for all bills or claims for payment for services rendered by others and for all services and materials employed in his work, and to indemnify and save harmless the OWNER, and all the OWNER'S officers, agents and employees against all suits, claims or liability of every name and nature arising out of or in consequence of the negligent acts or failures to act of the ENGINEER or others employed by him in the performance of the work covered by this AGREEMENT.

C. The ENGINEER further agrees to procure and maintain at his expense such workmen's compensation insurance as is required by the statutes and public liability insurance in amounts adequate to provide reasonable protection from claims for bodily injury, death or property damage which may arise from his performance and the performance of his employees under this AGREEMENT.

D. All documents, including original drawings, design calculations, work sheets, field notes, estimates, and other data shall remain the property of the OWNER; they shall be transmitted to the OWNER in clean and orderly condition on demand by the OWNER; however, these may be left in the possession of the ENGINEER at the OWNER'S discretion.

E. The ENGINEER shall not sublet, assign or transfer any part of the ENGINEER's services or obligations (except special services) under this AGREEMENT without the prior approval and written consent of the OWNER, and the contract shall be binding upon and inure to the benefit of the parties, their successors and assigns.

V. Termination

A. The OWNER shall have the right at any time for any reason whatsoever to interrupt or terminate the work required of the ENGINEER under this AGREEMENT, with a seven (7) day written notice of such interruption or termination transmitted to the ENGINEER by the OWNER. In the event of termination of this AGREEMENT, without fault on the part of the ENGINEER, the ENGINEER shall be entitled to compensation as determined by the WD for all work performed to the satisfaction of the WD and the OWNER, and pursuant to this AGREEMENT. In order that the ENGINEER shall receive payment under termination notice, all plans, drawings, tracings, field notes, estimates, specifications, proposals, sketches, diagrams, and calculations, together with all other materials and data prepared in connection with the PROJECT shall be transmitted to the OWNER in a form acceptable to the OWNER, WD and WMD.

IN WITNESS WHEREOF, the parties hereto have affixed their hand and seals at _____

County, New Hampshire, the day, month, and year first above written.

ENGINEER:

By: _____
(Authorized Representative*)

Date: _____

OWNER:

By: _____
(Authorized Representative*)

Date: _____

* *Signatures should be supported by appropriate document.*

Approved as to form:

Town Counsel

At a meeting of the Partners/Directors of _____ ,
held on _____ , at which all the Partners/Directors were present, except _____
_____, it was

VOTES: That all contracts may be signed by any one of the following:

A true copy

Attest: _____

Place of Business: _____

Date of this Contract: _____

I hereby certify that I am the Clerk of _____ ,
that _____ is the duly elected _____ ,
and that the above vote has not been amended or rescinded and remains in full force and effect as of this date.

Clerk

COST OR PRICE SUMMARY FORMAT FOR SUBAGREEMENTS UNDER NH SAG & SRF				Form Approved DES 11/00	
PART I - GENERAL					
1. GRANTEE / LOANEE				2. GRANT/LOAN NO.	
3. NAME OF CONTRACTOR OR SUBCONTRACTOR				4. DATE OF PROPOSAL	
5. ADDRESS OF CONTRACTOR OR SUBCONTRACTOR (Include ZIP)			6. TYPE OF SERVICE TO BE FURNISHED		
PART II - COST SUMMARY					
7. DIRECT LABOR (Specify labor categories)	HOURS	HOURLY RATE	ESTIMATED COST	TOTALS	
DIRECT LABOR TOTAL:					
8. INDIRECT COSTS (Specify indirect cost pools)	RATE	X BASE =	ESTIMATED COST		
INDIRECT COSTS TOTAL:					
9. OTHER DIRECT COSTS					
a. TRAVEL			ESTIMATED COST		
(1) TRANSPORTATION					
(2) PER DIEM					
TRAVEL COSTS TOTAL:					
b. EQUIPMENT, MATERIALS, SUPPLIES (Specify categories)			QTY	COST	ESTIMATED COST
EQUIPMENT SUBTOTAL:					
c. SUBCONTRACTS				ESTIMATED COST	
SUBCONTRACTS SUBTOTAL:					
d. OTHER (Specify categories)				ESTIMATED COST	
OTHER SUBTOTAL:					
e. OTHER DIRECT COSTS TOTAL:					
10. TOTAL ESTIMATED COST					
11. PROFIT					
12. TOTAL PRICE					

PART III - PRICE SUMMARY									
13. COMPETITOR'S CATALOG LISTINGS, IN-HOUSE ESTIMATES, PRIOR QUOTES (Indicate basis for price comparison)							MARKET PRICE (\$)	PROPOSED PRICE	
PART IV - DIRECT LABOR BY CATEGORY									
14. INSERT THE APPROPRIATE WORK CATEGORY IN THE TABLE BELOW. WORK CATEGORIES WOULD INCLUDE BUT NOT BE LIMITED TO THOSE CATEGORIES SHOWN IN THE CONTRACT DOCUMENTS SUCH AS DESIGN, SURVEY, SUBSURFACE, CADASTRAL, O&M MANUAL, ADMINISTRATION, INSPECTION, RECORD DWGS, START-UP, SPECIAL SERVICES, ETC.									
Work category ➔							Total Hours	Rate	Cost
Project Manager									
Project Engineer									
Staff Engineer									
Resident Inspector									
Draftsman									
Technician									
Clerical									
Total - Direct Labor Cost									